

MEMORANDUM OF AGREEMENT

Between

**NOAA's National Marine Fisheries Service
U.S. Department of Commerce**

And

New Hampshire Fish and Game Department

For The

Administration of a Pilot Permit Bank Program

September 2010



I. Parties to the Agreement

This document constitutes an agreement between the Northeast Regional Office (NERO) of NOAA's National Marine Fisheries Service (NMFS), U.S. Department of Commerce, and the New Hampshire Fish and Game Department (NH FGD).

NMFS is responsible for the management, conservation, and protection of living marine resources within the U.S. Exclusive Economic Zone. NMFS also plays a supportive and advisory role in the management of living marine resources in coastal areas under state jurisdiction, provides scientific and policy leadership in the international arena, and implements international conservation and management measures as appropriate.

The NH FGD was established to act as stewards of the fish, wildlife and marine resources of the State of New Hampshire, to protect, propagate, and preserve the fish, game and wildlife resources of the State, and to adopt rules for the adequate and effective control, management, restoration, conservation and regulation of the fish, game, bird and wildlife resources of the State, and the regulation and promotion of both recreational and commercial marine fishing in the salt waters of the State.

See Attachment A for identification of contact representatives for each party.

II. References and Authorities

NMFS has programmatic authority to participate in this project pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The Federal grant award to NH FGD for the purposes of establishing a permit bank is allocated under NOAA's Unallied Management Program, which is authorized under the Fish and Wildlife Coordination Act of 1956, 16 U.S.C. 661; Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 et seq.; National Fisheries Research and Development Program, 15 U.S.C. 713c-3(d); and the Department of Commerce Appropriation Act of 1999. Projects under this program provide economic, sociological, public policy, and other information needed by Federal and state natural resource administrators for conserving and managing fishery resources and protected species and their environment in Federal, state, and U.S. territorial waters.

NH FGD has authority to participate in this project pursuant to:

- 1) N.H. Rev. Stat. Ann. 206:39, which states the NH FGD is authorized to receive and expend with the approval of the governor and council any gifts and grants from any source including the United States of America and to hold property real and personal, acquired thereunder to complete any project authorized under the provisions of this title;

2) N.H. Rev. Stat. Ann. 206:23, which states that the executive director shall enter into cooperation with the departments of the Federal government and of this and all other states, for the protection, propagation, and preservation of all wildlife in this state, and shall execute all matters pertaining thereto, including a biological survey of the state; and

3) N.H. Rev. Stat. Ann. 206:23a, which states the executive director, with the consent of the commission, shall have the power and authority to enter into agreements with individuals, partnerships, and corporations, whether resident or nonresident, for the purpose of implementing fishways or fish ladders and any other matters relative to the protection, propagation, and preservation of fish, game, and fur-bearing animals of this state.

III. Background

The Magnuson-Stevens Act establishes a regime for the management of fishery resources that occur in the U.S. Exclusive Economic Zone and establishes the New England Fishery Management Council (Council) as the body responsible for the development of fishery management plans for fisheries in the Atlantic Ocean seaward of the states of Connecticut through Maine.

The Council has developed, and NMFS has approved and implemented, Amendment 16 to the Northeast Multispecies Fishery Management Plan (FMP), which expands a catch-share program known as "sectors" for the Northeast multispecies fishery. Catch-share management programs may help to prevent overfishing, eliminate the race to fish, reduce overcapacity and bycatch, and improve economic efficiency. However, catch-share programs may also result in the consolidation of fishing effort, reduce community involvement in local fishing, decrease access by small-scale fishermen to local fishery resources, create barriers to entry into the fishery by increasing the demand for capital to participate, and create competition among fishermen for access rights.

The sector management program allows groups of Northeast multispecies permit holders to pool individual potential sector contributions (PSC) to share among the sector members while fishing under quotas limited by the sum of the members' individual PSC. Northeast multispecies permit holders who do not join a sector would fish in the "common pool" under individual allocations of days-at-sea (DAS). With the implementation of Amendment 16, sectors may receive a transfer of additional annual catch entitlement (ACE) from other sectors to supplement the members' contributions, and members of the common pool may lease additional DAS from other common pool members to supplement their individual allocations. Under Amendment 16, members of sectors may also lease additional DAS from other members of sectors (but not from common pool vessels) for the purpose of fishing for monkfish and/or skates.

IV. Purpose

Both the NH FGD and NMFS have an interest in promoting the effective implementation of catch-share programs in New England, while minimizing any potential adverse socio-economic impacts to rural fishing communities and small-scale fishing businesses that are sometimes attributed to catch-share programs. Permit banks may be useful to mitigate some of the adverse impacts associated with catch-share programs. Permit banks can be used to preserve fishing opportunities for small-scale fishermen operating in small, rural fishing ports that may otherwise be disproportionately negatively affected by the consolidation of fishing effort that often follows implementation of catch-share programs. Permit banks may help ease the transition to catch-share programs by:

- Providing options to fishermen with little access to capital;
- Helping fishermen to improve cooperation and operating efficiencies;
- Maintaining small-boat enterprises through the combination of a variety of permit attributes (e.g., DAS, PSC) to meet the needs of fishermen and fishing communities for access to fishery resources; and
- Helping fishing communities achieve stable access to local fishery resources for local fishermen.

NOAA is providing funding to the State of New Hampshire, in the form of a Federal grant award to NH FGD, for the express purpose of establishing a bank of Northeast multispecies fishing vessel permits (Permit Bank). The Federal grant award is intended to enable NMFS and NH FGD, working collaboratively, to establish a pilot permit bank program in New Hampshire. NH FGD and NMFS intend for this Permit Bank to achieve the following objectives:

- To secure continued access to fishery resources for local, small-scale fishermen from small fishing communities throughout New Hampshire;
- To create and protect sustainable local fisheries;
- To supplement existing access rights held by fishermen in small New Hampshire communities; and
- To mitigate the effects of fishing effort consolidation on small-scale fishermen and rural fishing communities in New Hampshire.

V. Definitions

Annual Catch Entitlement (ACE) means the amount (weight) of each stock that can be harvested by a sector that year. The ACE is derived as the share of the annual total allowable catch (TAC) for a stock that is allocated to a sector, calculated based on the landings history attached to each permit that joins a sector in a given year, multiplied by

the available catch. The ACE may be adjusted, if necessary, due to prior overages and/or penalties.

Common Pool means the collection of commercial fishing vessels whose owners did not join a sector, and will fish under the constraints of the DAS system and any other regulations imposed for non-sector vessels.

Days-at-Sea (DAS) are the total days, including steaming time, that a boat spends at sea to fish. Amendment 13 to the Northeast Multispecies FMP categorized DAS for the multispecies fishery into three categories, based on each individual vessel's fishing history during fishing years 1996 through 2001. The three categories are: Category A, which can be used to target any groundfish stock; Category B, which can only be used to target healthy stocks; and Category C, which cannot be used until some point in the future. Category B DAS are further divided equally into Category B-regular and Category B-reserve.

Grant means an award of financial assistance, including cooperative agreements, in the form of money, or property in lieu of money, by the Federal Government to an eligible grantee. The term does not include technical assistance that provides services instead of money, or other assistance in the form of revenue sharing, loans, loan guarantees, interest subsidies, insurance, or direct appropriations. Also, the term does not include assistance, such as a fellowship or other lump sum award, for which the grantee is not required to account.

Potential sector contribution (PSC) means an individual fishing vessel permit's share (proportion) of the annual catch limit for each stock, based upon the fishing history associated with each permit.

Sector means a group of persons (three or more persons, none of whom have an ownership interest in the vessels owned or permits held by the other two persons in the sector) holding limited access vessel permits who have voluntarily entered into a contract and agree to certain fishing restrictions for a specified period of time, and which has been granted a TAC in order to achieve objectives consistent with applicable FMP goals and objectives. For the purposes of this Agreement, a Sector is one of the qualifying groups identified in 50 CFR 648.87.

VI. Terms and Conditions

The special award conditions of the Federal grant award require NH FGD and NMFS to agree to a set of terms and conditions for the development, implementation, and operation of the Permit Bank. As such, the parties do hereby agree to the following terms and conditions:

1. That as per Federal regulations at 50 CFR 648.4(n), the NMFS Regional Administrator, Northeast Region, retains the authority to suspend, cancel, fail to

renew, modify, or otherwise rescind any Federal fishing vessel permit, including the rights thereto, obtained by the NH FGD using a Federal grant award for the purposes of this Permit Bank if NH FGD, in the use of said permit and/or the operation of this Permit Bank, violates, or deviates in any way from, the terms and conditions of this Agreement.

2. That upon dissolution of the Permit Bank or termination of this Agreement by either party, the NMFS Regional Administrator, Northeast Region, may suspend, cancel, fail to renew, modify, or otherwise rescind any Federal fishing vessel permit, including the rights thereto, obtained by the NH FGD using a Federal grant award for the purposes of this Permit Bank, provided, however, that any DAS leased to a vessel or Sector, or ACE transferred to a Sector, by the Permit Bank prior to the effective date of such termination shall not be affected by such termination for the duration of the fishing year for which the transaction was made.
3. That the NH FGD may not permanently transfer, sell, or otherwise provide or surrender any of the rights and privileges associated with any Federal fishing vessel permits held and/or obtained by the NH FGD using funds from a Federal grant award for the purposes of the Permit Bank (including, but not limited to DAS and/or ACE) to any individual, Sector, corporation, non-profit organization, or government entity other than NMFS.
4. That the fishing vessel permits obtained by the NH FGD for the purposes of the Permit Bank may not be held on active vessels, such that no fishing or other on-the-water activities may be engaged by any vessels to which these permits are assigned (e.g., the Permit Bank permits should be held in Confirmation of Permit History).
5. That, in addition to the specific terms and conditions described herein, NH FGD shall operate the Permit Bank such that all transactions regarding leases of DAS and/or transfers of ACE associated with the fishing vessel permits held by NH FGD for use in the Permit Bank fully comply with all applicable Federal regulations.
6. That the NH FGD shall operate the Permit Bank such that all fishing vessel permits held and/or obtained by the NH FGD using funds from a Federal grant award shall only be used for the following purposes: (a) Transfers of ACE to qualifying Sectors; (b) leasing of groundfish DAS to qualifying vessels in qualifying Sectors for the purpose of fishing for monkfish and/or skates; or (c) beginning in fishing year 2011, leasing of DAS to qualifying vessels to be used only while engaged in cooperative research projects, in order to facilitate the completion of the on-the-water cooperative research activities (i.e., DAS leasing may not be used for compensation).
7. That the NH FGD shall submit to NERO at least 30 days prior to any Permit Bank transactions, a proposal describing how NH FGD plans to allocate available DAS and/or ACE from the Permit Bank to fishing vessel owners and/or Sectors from among those applicants that qualify for access to said DAS and/or ACE according to the terms and conditions of this Agreement, as well as any additional terms and conditions imposed by NH FGD. Any changes to the allocation proposal must be

made in writing and submitted to NERO prior to implementing the revised allocation plan. NH FGD may adopt administrative rules to implement the Permit Bank program.

8. That the NH FGD shall operate the Permit Bank such that no individual, Sector, corporation, non-profit organization, or government entity may be granted, or have access to, the rights and privileges associated with any Federal fishing vessel permits held and/or obtained by the NH FGD using funds from a Federal grant award for the purposes of the Permit Bank (including, but not limited to DAS and/or ACE), unless that individual, Sector, corporation, non-profit organization, or government entity meets all of the following criteria:
 - a. Owns and materially participates in the operation of a fishing vessel permitted to fish in the Federal limited access Northeast multispecies fishery that is not more than 45 feet in registered length overall, according to the vessel baseline specifications as documented in the NMFS vessel permit database at the time the transaction application is submitted;
 - b. Has, for the current fishing year and at least the preceding 3 fishing years, no record of substantial Federal permit sanctions or major violations of any Federal fishing regulations;
 - c. Resides in, and/or operates his/her fishing vessel from, a New Hampshire town or city with a population of no more than 30,000 residents; and
 - d. Agrees to and signs a contract with NH FGD to fish in a responsible and sustainable manner and complies with all applicable State laws and regulations concerning the Permit Bank.
9. That the NH FGD shall operate the Permit Bank such that no fishing vessel shall be utilized to fish under DAS leased and/or ACE transferred from the Permit Bank in accordance with this Agreement unless that fishing vessel meets all of the following criteria:
 - a. Is permitted to participate in the Federal limited access Northeast multispecies fishery;
 - b. Is not more than 45 feet in registered length overall, according to the vessel baseline specifications as documented in the NMFS vessel permit database at the time the transaction application is submitted; and
 - c. The vessel owner resides in, and/or operates the vessel from, a New Hampshire town or city with a population of no more than 30,000 residents.
10. That the NH FGD shall operate the Permit Bank such that no Sector shall be granted, or have access to, the rights and privileges associated with any Federal fishing vessel permits held and/or obtained by the NH FGD using funds from a Federal grant award for the purposes of the Permit Bank, unless that Sector (excluding the membership of NH FGD) meets all of the following criteria:

- a. That at least 75 percent of vessels enrolled in the Sector are based principally in New Hampshire; and
 - b. That at least 75 percent of the fishing vessels enrolled in the Sector, and the owners of said vessels, individually meet all criteria identified in items 8 and 9 above.
11. That the NH FGD shall obtain, from any qualifying Sector selected to receive ACE transferred from the Permit Bank, an agreement signed by the manager of said Sector identifying the specific fishing vessels enrolled in the Sector that are intended to utilize the transferred ACE.
12. That the NH FGD shall ensure that that sub-transferring of ACE and/or sub-leases of DAS initially provided to a qualifying fishing vessel or Sector does not occur, with the following exception: Sub-transferring of ACE by a Sector to another Sector may occur in the last 2 weeks of the fishing year for which the initial transaction was processed, or in the first 2 weeks of the subsequent fishing year.
13. That NH FGD may not use the Permit Bank, or any fishing vessel permits held by the Permit Bank, for the purpose of leasing in additional DAS and/or transferring in additional ACE.
14. That on or before April 1 of each Northeast multispecies fishing year (May 1-April 30), NH FGD shall submit to the NMFS contact representative (see Attachment A) a written declaration for each Federal fishing vessel permit subject to the terms and conditions of this Agreement identifying whether the fishing access privileges associated with that permit are to be used in the coming fishing year for either: (a) DAS leasing to Common Pool vessels for cooperative research purposes; or (b) transferring ACE (including the leasing of DAS to qualified vessels in qualifying Sectors for the purpose of fishing for monkfish and/or skates). Such declaration shall be binding for the duration of the coming fishing year.
15. That if NH FGD, through either State or external funding, acquires additional fishing vessel permits to be used in the Permit Bank, that terms and conditions of this Agreement shall not apply to the operation of the Permit Bank for those additional permits only. However, if additional fishing vessel permits for the Permit Bank are acquired either wholly or in part with funds from a NOAA grant specifically for that purpose, then all the terms and conditions of this Agreement apply.
16. That changes to either party's contact representative (see Attachment A), or contact information for that representative, shall be made by written notification to each party within 30 days of the change.
17. Transfers of ACE or leases of DAS from the Permit Bank to a qualifying Sector and/or fishing vessel (in the case of DAS leases only) may take the form of a lease, licensing agreement, contract, or other negotiated agreement between the State and the Sector (or vessel), but no such transactions may be valid for longer than the fishing year for which the transaction is approved by NMFS.

VII. Period of Performance

This Agreement shall be effective on the date it is signed by all parties and shall be automatically renewed every 3 years on the first of May of the third year, unless one of the parties elects not to renew the agreement, in writing, prior to the first of January of the third year. Furthermore, the Agreement may be terminated in writing at any time by the State or NMFS upon 90 days advance notice.

VIII. Funding, Payments, and Program Revenue

There will be no exchange of funds between the parties unless otherwise agreed in a separate agreement. Each party shall arrange for appropriate funding necessary to discharge its respective responsibilities under this agreement.

The ability of the parties to carry out their responsibilities under this Agreement is subject to their respective funding procedures and the availability of appropriated funds. Should either party encounter budgetary problems in the course of its respective internal procedures that may affect the activities to be carried out under this Agreement, that party will notify and consult with the other party within 45 days.

All revenue generated through the operation of the Permit Bank, either through the leasing of DAS or transferring of ACE, or through other means, shall be considered as program income, as defined in Department of Commerce regulations at 15 CFR 24.25, and shall be retained by NH FGD and used to offset costs incurred by NH FGD in the operation and administration of the Permit Bank program, consistent with the terms of Department of Commerce regulations at 15 CFR 24.25. Any unexpended program income remaining at the end of the agreement period shall remain with NH FGD to be used by it for purposes not inconsistent with this Agreement.

IX. Performance Reports

NH FGD shall prepare, and submit to the NMFS contact representative, annual reports documenting the performance of the Permit Bank. Such reports shall be due to NMFS on June 1 of each year following the calendar year in which this Agreement first becomes effective, and shall include, at a minimum, the following information:

- a. For each Permit Bank transaction in the preceding fishing year:
 - 1) The Federal permit numbers of the permits held by the Permit Bank and whether the fishing access privileges associated with the permits were used for (1) DAS leasing or (2) ACE transfers;
 - 2) The number of DAS leased or amount of ACE transferred (by stock);
 - 3) The Federal fishing vessel permit number(s) of the fishing vessel(s) that received either the DAS lease or ACE transfer associated with the subject Permit Bank permit(s);

- 4) For ACE transfers to a Sector, the name of the Sector and a copy of the transfer agreement with that Sector (see item 11 under section VI);
 - 5) The price paid, if any, by the recipient for the transaction (by DAS or, for ACE, by stock);
 - 6) The effective date of the transaction.
- b. Summary information for the preceding fishing year, including:
- 1) The total number of transactions;
 - 2) The total number of DAS leased;
 - 3) The total amount of ACE transferred, by stock;
 - 4) The number of unique vessels receiving the transactions;
 - 5) The total program income generated by NH FGD from the DAS leases and ACE transfers; and
 - 6) Total costs incurred by NH FGD associated with the operation and administration of the Permit Bank, delineated by type (personnel, documentation, travel, facilities, etc.).
- c. An evaluation of the impact of the Permit Bank program, including:
- 1) The degree to which the operation of the Permit Bank achieved the purposes and objectives of the Permit Bank identified in section IV above;
 - 2) Issues, concerns, or problems related to the operation of the Permit Bank; and
 - 3) Suggestions/recommendations to improve the operation of the Permit Bank to more fully achieve the purposes and objectives.

X. Enforcement

During the performance of the NOAA grant to the State of New Hampshire, the NOAA Grants Officer, in consultation with the NERO, shall be authorized to take appropriate actions if NH FGD, as grant recipient and not Sector member, fails to meet its obligations under the terms and conditions of the grant award. Such actions include all those stipulated at 15 CFR 24.43, and include, by extension, those actions stipulated at 50 CFR 648.4(n).

Upon closeout of the grant award, as determined by the NOAA Grants Officer, the Regional Administrator, Northeast Region, NMFS, shall have the authority to take whatever action under 50 CFR 648.4(n) that she deems appropriate for the remaining period of effectiveness of this Agreement, including all subsequent amendments and revisions thereto.

XI. Amendments and Review

This Agreement may be amended in writing at any time by agreement and approval of the Regional Administrator, NMFS Northeast Region, the Executive Director of the NH FGD, and the Office of the NH Attorney General. All necessary changes will be accomplished in writing, either by an amendment to this Agreement or by entering into a new agreement, whichever is deemed expedient to the interest of both parties. At a minimum, both parties shall review and consult on the terms and conditions of this Agreement once every 3 years.

XII. Other Provisions

This Agreement shall be construed to be consistent with the Magnuson-Stevens Act and other applicable Federal laws and regulations promulgated thereunder.

Nothing herein is intended to conflict with current U.S. Department of Commerce, NOAA/NMFS, or NH FGD directives. If the terms of this Agreement are inconsistent with existing directives of either of the agencies entering into this Agreement, then those portions of this Agreement that are determined to be inconsistent shall be invalid, but the remaining terms and conditions not affected by the inconsistency shall remain in full force and effect. Should such an inconsistency be identified, the parties shall, at the first opportunity, amend this Agreement consistent with section XI above.

Should disagreements arise on the interpretation of the provisions of this Agreement, or any amendment and/or revisions thereto, that cannot be resolved at the operating level, the area(s) of disagreement shall be stated in writing by each party and presented to the other party for consideration. If agreement on interpretation is not reached within 30 days of the latest presentation of a party's position, the parties shall forward the written presentation of the disagreement to respective higher officials for appropriate resolution.

The terms and conditions described in this Agreement regarding the operation of the Permit Bank, particularly as to the qualifying criteria of individual fishing vessels, vessel owners, and Sectors for access to the DAS and/or ACE held by the Permit Bank, are intended to serve as minimum criteria. NH FGD may decide to impose more restrictive criteria, or additional requirements, on potential participants, but will consult with NERO prior to imposing such additional restrictions.

XIII. Terms of the Agreement

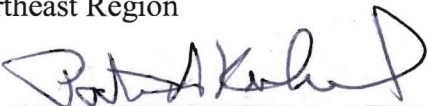
The terms of this agreement shall become effective upon the signature of both the approving officials of the respective agencies entering into this agreement.

The terms of this agreement shall remain in effect until terminated by: Mutual agreement, in writing; 90 days advanced written notice by either party; or the ending date of the period of performance, whichever shall occur first.

For the purposes of this Agreement, all Federal fishing vessel permits obtained by the State of New Hampshire for the purpose of operating the Permit Bank shall be considered "intangible property" under the terms of 15 CFR 24.34(b). Accordingly, such permits shall be used for the originally authorized purpose as long as needed for that purpose (determined as the period of effectiveness of this Agreement) and the State of New Hampshire, or its agents, shall not dispose of or encumber its title or other interests. When no longer needed for the originally intended purpose, and upon mutual agreement by all parties, disposition of such permits shall be made as provided in 15 CFR 24.32(e).

APPROVED:

National Marine Fisheries Service
Northeast Region

By: 
Patricia A. Kurkul
Regional Administrator

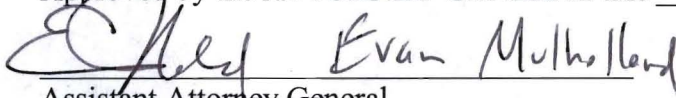
Date: SEPT 10, 2010

New Hampshire Fish and Game Department

By: 
Glenn Normandeau
Executive Director

Date: Sept 15, 2010

Approved by the ATTORNEY GENERAL this 24 day of Sept., 2010.


Assistant Attorney General
State of New Hampshire

Attachments

- A. Contact Representatives
- B. Statement of Work from NH FGD

Attachment A

Contact Representatives

National Marine Fisheries Service
Northeast Regional Office
Contact:

Michael Pentony
Senior Fishery Policy Analyst
55 Great Republic Drive
Gloucester, MA 01930
(978) 281-9283 (phone)
(978) 281-9135 (fax)

New Hampshire Fish and Game Department
Contact:

Cheri Patterson
Supervisor Marine Programs
Marine Fisheries Division
225 Main St.
Durham, NH 03824
(603) 868-1095 (phone)
(603) 868-3305 (fax)

Attachment B

Approach/Statement of Work:

Permit acquisition process:

NH FGD may subcontract the administration of the Permit Bank. The administration of the permit bank will likely include development of criteria to base permit selection on, purchase of permits, developing guidelines for distribution of permit bank ACE or Days at Sea, overseeing monitoring of use of ACE, etc.

The selection and permit acquisition process will be development by the NH FGD, the Permit Bank administrator and the commercial fishing community. The general outline of the process will be as follows: Upon receipt of this award NH FGD or Subcontractor will publish a request for proposals (RFP) soliciting competitive bids for groundfish permits with Annual Catch Entitlement (ACE) appropriate for vessels fishing in designated NH sectors. A scoring formula will be developed to ensure the most appropriate and cost-effective permits are purchased. Scoring will be weighed by the PSC values of applicable species. The scoring will also factor in whether or not the permit is currently owned by a NH resident.

NH FGD is not interested in acquiring vessels, nor will we assign any value to vessels that may accompany permits up for bid. Once a permit is purchased, it will be placed in confirmation of permit history (CPH) status. Should it be necessary to transfer permits to vessels, all permits will be transferred to NH FGD vessels.

NH FGD intends to also work closely with our NMFS partners during the development of this process. Once a process has been developed, the details will be described in a letter from NHFGD to NMFS.



**New Hampshire Fish and Game Department
Permit Bank Program
April 15, 2010**

Grant Amount: \$1,000,000
Project Leader: Cheri Patterson, Supervisor of Marine Programs
Federal Funding Opportunity #: NOAA-NMFS-NERO-20 10-2002373
under the CFDA No. 11.454

PROJECT NARRATIVE

State: New Hampshire

Project Title: New Hampshire Commercial Fishing Industry Permit Bank Program

Objective: To establish a Permit Bank Program to buy fishing permits in support of NH's fishing industry.

Summary:

The traditional commercial fishing industry in New Hampshire (NH) has been in existence since colonial times. The independent nature of commercial fishing makes fishers susceptible to financial hardships that may occur due to many factors such as regulation changes. The nature of NH's commercial fleet is comprised of small day-trip vessels that are restricted to closer-to-shore fishing grounds to maintain a viable livelihood and be productive and promotable businesses to the community and the wider commerce arena. These smaller fishing communities are even more susceptible to regulation changes that may control factors such as fishing effort, proportions of catch (PSC), etc.

To continue supporting NH's traditional and important fishing industry while supporting conservation management decisions to maintain sustainable fisheries there needs to be an equitable process among state and federal natural resource managers and commercial fishing communities. Natural resource agencies missions to protect the resource and maintain stewardship with the industry can be achieved by building strong and effective partnerships with our constituents and move towards a unified effort in maintaining sustainable fisheries and fishing communities that benefit the local communities, states, and the nation.

Both the New Hampshire Fish and Game Department (NH FGD) and the National Marine Fisheries Service (NMFS) have an interest in promoting the effective implementation of catch-share programs in NH, while minimizing any potential adverse socio-economic impacts to NH's rural fishing communities and small-scale fishing businesses that are affected by catch-share programs. One method to achieve this is establishing a "bank" of Northeast multispecies fishing vessel permits (Permit Bank) for use by NH vessels within a Sector. The Permit banks may be useful to mitigate some of the adverse impacts associated with catch-share programs. Permit banks can be used to preserve fishing opportunities for small-scale fishermen operating in small, rural fishing ports that may otherwise be disproportionately negatively affected by the

consolidation of fishing effort that often follows implementation of catch-share programs.

Permit banks may help ease the transition to catch-share programs by:

- Providing options to fishers with little access to capital;
- Helping fishers to improve cooperation and operating efficiencies;
- Maintaining small-boat enterprises through the combination of a variety of permit attributes (e.g., Days-At-Sea, Potential Sector Contributions, etc.) to meet the needs of fishers and fishing communities for access to fishery resources; and
- Helping fishing communities achieve stable access to local fishery resources for local fishers.

By working collaboratively with NMFS, the NH FGD will develop and sign a Memorandum of Agreement (MOA) to implement a permit banking program in order to preserve and restore fishing opportunities to NH's fishermen and communities. The goal of the permit banking program is twofold: 1) provide short-term economic assistance to small vessels operating from rural NH ports, and 2) potentially providing future access to rebuilt stocks for NH's fishing industry and associated coastal communities.

NH FGD will use the awarded funds of this grant to purchase federal limited access northeast multispecies permits to be held by NH FGD. The fishing privileges attached to the permits will be distributed to NH fishing vessels that meet the requirements defined in the Memorandum of Agreement (MOA) jointly signed by NH FGD and NMFS.

Approach/Statement of Work:

Permit acquisition process:

NH FGD may subcontract the administration of the Permit Bank. The administration of the permit bank will likely include development of criteria to base permit selection on, purchase of permits, developing guidelines for distribution of permit Annual Catch Entitlement (ACE) or Days at Sea (DAS), overseeing monitoring of use of ACE/DAS, etc.

The selection and permit acquisition process will be development by the NH FGD, the Permit Bank administrator and the commercial fishing community. The general outline of the process will be as follows: Upon receipt of this award NH FGD or Subcontractor will publish a request for proposals (RFP) soliciting competitive bids for groundfish permits with

Annual Catch Entitlement (ACE) appropriate for vessels fishing in designated NH sectors. A scoring formula will be developed to ensure the most appropriate and cost-effective permits are purchased. Scoring will be weighed by the PSC values of applicable species. The scoring will also factor in whether or not the permit is currently owned by a NH resident.

NH FGD is not interested in acquiring vessels, nor will we assign any value to vessels that may accompany permits up for bid. Once a permit is purchased, it will be placed in confirmation of permit history (CPH) status. Should it be necessary to transfer permits to vessels, all permits will be transferred to NH FGD vessels.

NH FGD intends to also work closely with our NMFS partners during the development of this process. Once a process has been developed, the details will be described in a letter from NHFGD to NMFS.

Schedule: May 1, 2010 - August 31, 2011 (see below for potential extension concerns)

While NH FGD anticipates allocating fishing privileges in FY 2010, the allocation timeline cannot be determined until after permit purchasing process is established. Federal fishing regulations prohibit permits from leaving a sector within a fishing year. The MOU requires that sectors receiving fishing opportunities meet certain requirements. If NH FGD purchases permits in sectors with operating rules that may limit or prevent transfer of ACE, the program will not be able to utilize the associated fishing opportunities until the permit is transferred to an eligible sector. This cannot happen until May 1, 2011. In addition, NH FGD will need to review the FY 2010 history of each purchased permit. Because sectors are free to transfer individual permits' ACE freely within the sector, NH FGD will need to determine how much of this ACE has already been caught by the time the permit is purchased. Consequently, NH FGD may purchase permits with a high PSC but low or exhausted FY 2010 ACE.

Estimated costs: See attached budget

Personnel:

Douglas Grout, Chief of Marine Fisheries,

e-mail: douglas.grout@wildlife.nh.gov

Cheri Patterson, Supervisor of Marine Programs, **Principle Investigator**

e-mail: cheri.patterson@wildlife.nh.gov

Budget:

New Hampshire Commercial Fishing Industry Permit Bank Program			
BUDGET			
	State	Federal	Total
NH FGD Administration			
Personnel Costs		\$4,890	\$4,890
Salary and benefits for 120 hours of			
Marine Division Chief and Supervisor of Marine Programs			
Benefits @ 45.05%-(FICA-6.20%, Medicare-1.45%, Retirement- 11.05% remainder in Health +Dental Insurance) *			
Indirect @ 18.49% **		\$904	\$904
Contractor - Administration of the Program ***		\$40,000	\$40,000
Permit Acquisition		954,206	954,206
TOTAL:		\$1,000,000	\$1,000,000

Budget Notes:

* The cost of fringe benefits is represented as a percentage of salary and based upon the current costs for applicable employees.

** Indirect costs are estimated using the Department's proposed FY11 rate. Actual costs will be charged using the approved rate applicable when costs are incurred. The allocation base is direct wages and benefits.

*** Details of a contract to administer the Permit Bank are not finalized at this time.

DOUGLAS E. GROUT

CAREER ORIENTATION: Fisheries Biology (Anadromous and Marine Fisheries)

WORK ADDRESS:

New Hampshire Fish & Game Department
Region 3 Office
225 Main Street
Durham, NH 03824
603-868-1095

HOME ADDRESS:

53 Belle Lane
Lee, NH 03861
603-659-3474

EDUCATION:

M.S. in Zoology, 1981, University of New Hampshire, Durham, New Hampshire

Summer Course, 1979, University of Washington, Friday Harbor Lab, San Juan Island, Washington (Fish Biology course and research project concerning juvenile flatfish).

B.A. in Zoology, 1977, University of New Hampshire, Durham, New Hampshire (graduated Cum Laude).

EMPLOYMENT AND EXPERIENCE:

Chief of *New Hampshire Fish & Game Department, Durham, N.H. Chief*
Marine Fisheries Div. *Administrator of the Marine Fisheries Division, Chief Administrator of the*
(6/08 to present) *Region 3 office complex, develops and prepares budgets, monitors and controls spending of funds, develops proposed regulations and rules to protect marine resources, represents the Department on state, Atlantic States Marine Fisheries Commission, New England Fisheries Management Council and other boards in decision making role. Dive Master for Marine Fisheries dive team.*

Acting Chief of *New Hampshire Fish & Game Department, Durham, N.H. Chief*
Marine Fisheries Div. *Administrator of the Marine Fisheries Division, Chief Administrator of the*
(3/08 to 5/08) *Region 3 office complex, develops and prepares budgets, monitors and controls spending of funds, develops proposed regulations and rules to protect marine resources, represents the Department on state, Atlantic States Marine Fisheries Commission, New England Fisheries Management Council and other boards in decision making role. Dive Master for Marine Fisheries dive team.*

Supervisor of *New Hampshire Fish & Game Department, Durham, N.H. Supervises*
Marine Programs *the Marine/Anadromous, Fisheries Statistics, Recreational Fisheries,*
(2/06 to 2/08) *and Invertebrate Fisheries Units of the Marine Fisheries Division. Duties include planning, coordinating, and supervising various fisheries dependent and fisheries independent projects. Represents state on a variety of marine interstate fisheries management boards and technical committees. Department SCUBA dive team member.*

Biologist III.....*New Hampshire Fish & Game Department, Durham, N.H. Unit Leader*
(6/99 to 2/06) *for the Marine/Anadromous and Fisheries Statistics Units of the Marine Fisheries Division. Duties include planning, coordinating, and supervising various fisheries dependent and fisheries independent projects. Represents state on a variety of Marine interstate fisheries management boards and technical committees. Department SCUBA dive team member.*

Marine Biologist.....*New Hampshire Fish & Game Department, Durham, N.H. Planning and coordinating projects with regard to diverse estuarine and marine fisheries research. Administrative duties involve acting as New England Fisheries Management Council liaison and representative on a variety of ASMFC committees. Department SCUBA dive team member.*

Fisheries Biologist I...*New Hampshire Fish & Game Department, Concord, N.H. Responsible (10/84 to 5/88) for carrying out and participating in a variety of inland and marine fisheries projects including field activities, data analysis, report writing, and management plan writing. NH representative to ASMFC Northern Shrimp Technical Committee. Department SCUBA dive team member.*

Biologist Aide II.....*New Hampshire Fish & Game Department, Concord, N.H. Assist (5/84 to 10/84) biologists in a variety of marine and inland fisheries projects. Duties included creel surveys, fish transport and stocking, fish capture via a variety of methods, data collection and processing of data.*

Fish Culturist I.....*New Hampshire Fish & Game Department, Powder Mill Rearing Station, New Durham, N.H. Feed and sort fish and assist in weighing of separate lots. Perform general maintenance and upkeep of installation. On alternating weeks, perform nightly inspection of hatchery grounds, buildings, and fish pools as well as opening and closing station on weekends.*

Biological Research

Consultant.....*Terra Mar International Services, Inc., Durham, N.H. Identifying, sorting, (10/80 to 6/83) measuring, weighing, and field collection of marine benthic invertebrates. Supervisor of lab; training of employees.*

Research Consultant...*Academy of Natural Sciences, Philadelphia, PA. Collecting lake and (5/82 to 9/82) stream water quality data from various government, educational, and private institutions n New England for an EPA grant to study acid rain.*

OTHER CAREER RELATED ACHIEVEMENTS:

NAUI Certified SCUBA Diver (1972)
American Fisheries Society Member since 1981
Certified Fisheries Scientist (1992 American Fisheries Society)
Chairman and Vice-Chairman Management and Science Committee of the Atlantic States Marine Fisheries Commission (1995-1998, 2004 to 2008)
Chairman Stock Assessment Committee of the Atlantic States Marine Fisheries Commission (2003-2005)
Chairman and Vice-Chairman Striped Bass Technical Committee of the Atlantic States Marine Fisheries Commission (2003-2007)
ASMFC Award of Excellence in the Scientific/Technical/Advisory category (2005)

Publications

Grout, D. E. 1983. A case of hemaphroditism in the rainbow smelt, *Osmerus mordax*. *Copeia*, 1983 (3): 812-813.

Grout, D. E. 2006. Interactions between striped bass (*Morone saxatilis*) rebuilding programmes and the conservation of Atlantic salmon (*Salmo salar*) and other anadromous fish species in the USA. *ICES Journal of Marine Science*, 63: 1346-1352.

CHERI A. PATTERSON

CAREER ORIENTATION: Marine and Diadromous Fisheries Research and Management

WORK ADDRESS:

New Hampshire Fish and Game Dept.
225 Main St.
Durham, NH 03824
(603)868-1095

EDUCATION:

B.S. in Zoology, 1996, University of New Hampshire, Durham, New Hampshire.

EMPLOYMENT AND EXPERIENCE:

<u>Supervisor of Marine Programs</u> (7/08 to present)	N.H. Fish and Game Dept. (NHF&G), Concord, NH. Supervises the Marine/Anadromous, Fisheries Statistics, Recreational Fisheries, and Invertebrate Fisheries Units of the Marine Fisheries Division. Duties include planning, coordinating, and supervising various fisheries dependent and fisheries independent programs. Represents state on a variety of marine interstate fisheries management boards and technical committees.
<u>Marine Biologist II</u> (11/05 to 7/08)	N.H. Fish and Game Dept. (NHF&G), Concord, NH. Responsible for managing and supervising a variety of marine and diadromous fisheries research and management projects including field activities, data analysis, report writing, and management plan writing. Administrative duties include acting as NHF&G's representative on several ACCSP Committees (Operations, Biological Review, Bycatch and Outreach), partner consultant for NOAA Industry Based Survey, Rivers Restoration Task Force, ASMFC Shad and River Herring Technical Committee as well as the Plan Development Team, Striped Bass Technical Committee, and Partnership to Restore New Hampshire's Estuaries.
<u>Marine Biologist I</u> (8/97 to 11/05)	N.H. Fish and Game Dept. (NHF&G), Concord, NH. Responsible for operation and participating in a variety of marine and anadromous fisheries research and management projects including field activities, data analysis, report writing, and management plan writing. Administrative duties include acting as NHF&G's representative to the ACCSP Commercial Technical Committee, ACCSP Operations Committee, Industry Based Survey, Rivers Restoration Task Force and ASMFC Shad and River Herring Technical Committee.
<u>Biological Technician</u> (7/94 to 8/97)	N.H. Fish and Game Dept., Concord, NH. Developed and maintained commercial fishing, coastal netting and marine licensing reporting systems, conducted field research, data analysis and report writing for anadromous fish projects, and operated and maintained seven fishways. Administrative duties involved acting as NHF&G's representative to the ACCSP Commercial Technical Committee.
<u>Biological Aide II</u> (8/79 to 7/94)	N.H. Fish and Game Dept., Concord, NH. Assisted marine and anadromous biologist in a variety of fisheries projects. Responsible for preparation of diving projects, aged variety of fish scales, operation of seven fishways, creel surveys and dredge and fill investigator. . Department SCUBA dive party leader.

- Biological Aide I N.H. Fish and Game Dept., Concord, NH.
(4/78 to 8/79) Assisted marine and anadromous biologists in a variety of fisheries projects. Duties included creel surveys, monitoring the migration of larval, juvenile, and adult shad and river herring, boat operation and maintenance, fish transport and stocking, and data collection. Department SCUBA dive team member.
- Temporary Biological Aide I ... N.H. Fish and Game Dept., Concord, NH.
(6/77 to 4/78) Assisted marine biologists in a variety of marine and anadromous fisheries projects. Duties included creel surveys, lobster diving project, anadromous fish transfers, boat (14' - 34') operation and maintenance. Department SCUBA dive team member.

OTHER CAREER RELATED ACHIEVEMENTS:

Chair and Vice-Chair Commercial Technical Committee, Atlantic Coastal Cooperative Statistics Program (2000-2004)

Chair and Vice-Chair Operations Committee, Atlantic Coastal Cooperative Statistics Program (2004-2007)

Ex-Officio Technical Consultant to NH Coastal Wetlands Restoration Partnership

Professional References:

NH Fish and Game Department

Doug Grout, Fisheries Biologist, Marine Fisheries Division

225 Main Street, Durham, NH 03824

Tel: (603) 868-1095

Past Atlantic Coastal Cooperative Statistics Program Director

Maury Osburn,

Address or phone number upon request